

City of Costa Mesa Police Department

Memorandum



DATE: April 24, 2018

TO: Costa Mesa City Council
Thomas Hatch, City Manager

FROM: Robert N. Sharpnack, Chief of Police
Bryan F. Glass, Captain

SUBJECT: SENATE BILL 54 – CALIFORNIA VALUES ACT

The Police Department's primary mission is to provide police services to the community of Costa Mesa, while enforcing local, State, and Federal laws. In light of this, the Police Department's participation in immigration enforcement-related activities has varied based on direction and policy set by the Costa Mesa City Council over the years.

The Police Department has worked extensively to build a foundation of trust and safety in our community. These priorities are supported through a department-wide commitment to fair and impartial policing practices. Critical to this approach is maintaining open and honest communication with all community members. While our environment is in a constant state of flux, we enforce the laws and approach issues with a spirit of neutrality.

In January 2018, Senate Bill 54 – California Values Act (SB 54) went into effect. SB 54 made significant changes to the California's Transparency and Responsibility Using State Tools (TRUST) Act and established the California's Values Act, which defines parameters under which state and local law enforcement agencies may engage in immigration enforcement-related activities. Besides the guidelines outlining local law enforcement's collaboration levels with federal agents on immigration enforcement-related activities, these new parameters have not substantially affected the Costa Mesa Police Department's normal operational practices, nor have they impeded our ability to provide quality services to the community. The limited impacts are partially due to our long-standing Police Department policies, which constrained immigration enforcement practices.

During the City Council Meeting on April 3, 2018, council members briefly discussed SB 54. City staff was subsequently directed to provide background information on SB 54 and the impacts on law enforcement. Additionally, following the meeting, council members have had general questions related to the law and changes in procedures. Attached is a list of questions directed to the Police Department and responded to by staff. Further, a table has been created on the effects of SB 54 on jurisdictions in California and compares the effect(s), if any, on Costa Mesa.

Council members have also presented questions regarding the "rule of law" policies which were implemented from 2007-2011. During that particular time period, statistical data was maintained related to ICE activities in the custody environment. For further information, see the attached tables.

QUESTIONS & ANSWERS RELATED TO SB-54

<i>SB-54 effects to how we do business:</i>	<i>The new parameters have not substantially effected normal PD operations.</i>
<i>Number of arrestees sent to county jail, released on bail or order to appear, and otherwise released:</i>	<i>There is a significant amount of data that would require parameters and additional time.</i>
<i>Released to ICE since SB-54 became effective:</i>	<i>None</i>
<i>Released to ICE prior to SB-54 becoming effective:</i>	<i>None</i>
<i>Released to ICE by OCSD since SB-54 became effective:</i>	<i>Unknown. OCSD does not keep statistics on topic.</i>
<i>Released to ICE by OCSD prior to SB-54 becoming effective:</i>	<i>Unknown. OCSD did not keep statistics on topic.</i>
<i>Warrant:</i>	<i>An order that has received judicial review and authorizes the arrest of a person.</i>
<i>Deportation order:</i>	<i>An official document stating that someone must be made to leave a country.</i>
<i>Holds or detainer:</i>	<i>An order authorizing the continued detention of a person in custody.</i>
<i>Habeas corpus:</i>	<i>A writ requiring a person be brought before a judge or court to determine if a detention is lawful.</i>
<i>Law enforcement agencies challenged under habeas corpus:</i>	<i>None to our knowledge.</i>
<i>Penalties under habeas corpus:</i>	<i>Civil and federal remedies.</i>
<i>G4S jail services:</i>	<i>G4S staff operate under the guise of the police department and follow the department's established policies and practices.</i>

SB-54 SUMMARY

Effect of California Values Act 54 on Jurisdictions in California	Effect on Costa Mesa
Amendments to Trust Act	
Limited immigration detainers. Removed express authorization to honor an immigration detainer under specified circumstances and instead providing that a law enforcement official shall have the discretion to cooperate with immigration authorities only if doing so would not violate any federal, state or local law, or local policy, and where permitted by the California Values Act.	No effect due to pre-established policies and practices.
Transfers limited to more significant crimes. Local agencies may respond to a request for notification or transfer of an inmate if the person has been convicted of a Trust Act crime, which includes a serious or violent felony, a felony punishable by imprisonment in state prison, a misdemeanor as part of a “wobbler” within the past five years, or a felony for one of the numerous offenses outlined in Government Code section 7282.5(a)(3) within the last 15 years.	Not applicable. We do not house inmates after they are sentenced.
No cooperation re Misdemeanors. No cooperation with immigration authorities shall occur for individuals arrested, detained, or convicted of misdemeanors that were previously felonies or wobblers prior to the passage of Proposition 47.	No effect due to pre-established policies and practices.
In enacting the California Values Act, the Legislature now prohibits California agencies from using agency or department money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including:	
Immigration Status. Inquiring into an individual's immigration status.	No effect due to pre-established booking practices.
Immigration Holds. Detaining an individual on the basis of a hold request.	No effect. Arrestees are processed and transported to county jail on state law violations.
Release Date. Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information, unless such information is available to the public or is in response to a notification request from immigration authorities in accordance with Section 7282.5. (such crimes are generally the more significant crimes)	No effect. Not applicable to CMPD, we do not house sentenced inmates. Arrestees are transported to County jail and either remain there or go onto the Department of Corrections.

Personal Information. Providing personal information about an individual, including but not limited to the individual's home address or work address, unless that information is available to the public.	No immediate impact observed.
Immigration Warrants. Making or intentionally participating in arrests based on civil immigration warrants.	Not applicable due to pre-established policy and practices.
Border Patrol. Assisting immigration authorities in searching vehicles or entering private land for the purpose of preventing the illegal entry of aliens to the United States.	Not applicable due to pre-established policy and practices.
Immigration Officer. Performing the functions of an immigration officer.	Not applicable due to pre-established policy and practices.
The California Values Act also prohibits:	
Federal Control. Placing peace officers under the supervision of federal agencies, or employing peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement.	Not applicable due to pre-established policy and practices.
Federal Interpreters. Using immigration authorities as interpreters for law enforcement matters relating to individuals in custody.	Not applicable due to pre-established policy and practices.
Limiting Transfers to ICE. Transferring an individual to immigration authorities unless authorized by judicial warrant, a judicial probable cause determination, or in accordance with Section 7282.5 (generally the more substantial crimes).	Not applicable due to pre-established policy and practices.
Office Space for ICE. Providing office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.	Not applicable due to pre-established policy and practices.
Renting Space to ICE. Contracting with the federal government for use of California law enforcement facilities to house individuals as federal detainees, except pursuant to Chapter 17.8.	Not applicable.
The California Values Act expressly does not prohibit cities from:	
Enforcing Federal Felonies. Investigating, enforcing, detaining, or arresting an individual who unlawfully enters or attempts to reenter the United States following removal based upon conviction of a federal aggravated felony, provided that such entry or attempted reentry is detected during unrelated law enforcement activity.	Not applicable due to pre-established policy and practices.
Providing Criminal History. Responding to a request for information about a specific individual's criminal history where otherwise permitted by law.	Not applicable due to pre-established policy and practices.

Joint Task Forces. Conducting enforcement or investigative duties in connection with a joint law enforcement task force, provided that certain conditions are met (e.g. reporting requirements).	Not applicable at this point.
Information re Trafficking Victims. Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa.	Not applicable.
Allowing ICE Interviews. Giving immigration authorities access to interview an individual in custody. Such access must comply with the requirements of the TRUTH Act.	Not applicable due to pre-established practices. We have adopted new policies under the TRUTH Act.
Other Notification Requirements	
Joint Task Force. The Act sets forth reporting requirements for law enforcement agencies that elect to participate in a joint law enforcement task force. (The California Attorney general has additional reporting requirements beginning March 1, 2019.)	Not applicable at this time.
No Duty to Notify re certain Drug Offences. SB 54 repeals Health and Safety Code section 11369, which requires arresting agencies to notify immigration authorities when a person is arrested for specified drug offenses and there is a reason to believe that such person may not be a United States citizen	Not applicable due to pre-established policy and practices.

ICE STATISTICS FOR JAN. 2007 – JAN. 2011

2011	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
Total Interviewed by ICE*	4	-	-	-	-	-	-	-	-	-	-	-	4
Total Detainers Issued	4	-	-	-	-	-	-	-	-	-	-	-	4

2010	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
Total Interviewed by ICE*	7	14	22	17	11	19	17	12	18	13	7	14	171
Total Detainers Issued	7	14	22	17	11	19	17	12	18	13	7	14	171

2009	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
Total Interviewed by ICE*	76	43	51	49	61	80	47	68	53	19	10	11	568
Total Detainers Issued	33	33	43	39	36	26	41	30	38	16	10	11	356

2008	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
Total Interviewed by ICE*	27	0	21	64	113	113	68	52	55	64	32	20	629
Total Detainers Issued	13	1	19	32	44	42	33	25	35	50	15	18	327

2007	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	TOTALS
Total Interviewed by ICE*	171	238	269	223	252	225	133	95	94	92	115	77	1,984
Total Detainers Issued	57	30	-	-	-	-	54	50	30	25	33	21	300

* All arrestees booked are screened, and foreign born individuals are interviewed.